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SUBJECT: Talk of Retaliation Against "Buy American" Escalates in Canada

Refs: (A) Toronto 85
(B) Toronto 98
(C) Ottawa 364

SENSITIVE BUT UNCLASSIFIED. PLEASE PROTECT ACCORDINGLY

¶1. (SBU) Summary: Calls for retaliation against "Buy American" provisions in U.S. federal legislation are growing in Canada. Canadian officials and businesses claim "Buy American" actions threaten serious economic damage here, both to American and Canadian firms and their joint supply chains. In addition to retaliation threats, some Canadian companies are reaching out to U.S. customers whose own enterprises may be negatively affected by "Buy American" actions. End summary.

Foreign Ministry Revises Its Assessment

¶2. (SBU) "Buy American" provisions in the American Recovery and Reinvestment Act of 2009 (ARRA) and pending federal legislation affecting purchases in water, environment, and education have sparked deep concern in Canada (reftels). In a May 21 meeting, senior Department of Foreign Affairs and International Trade officials outlined Canadian concerns to EMIN. In contrast to discussions earlier this year - when DFAIT officials believed "Buy American" was unlikely to have deep or lasting impacts - the officials expressed alarm at the "escalating" effects of "Buy American" provisions. Offering only anecdotal evidence, the officials stated that the reach of the "Buy American" has gone well beyond initial predictions, and has the potential to cause serious and lasting damage to Canadian business.

¶3. (SBU) DFAIT officials stated that their concerns stem from the expanding reach of Buy American beyond the original ARRA stimulus measures into:

-- similar provisions in other federal legislation, such as the Water Quality Investment Act and the 21st Century Green High-Performing School Facilities Act;

-- similar provisions at the state and municipal level (e.g., Denver's prohibitions on foreign steel);

-- over-zealous enforcement of existing legislation (e.g., Surface Transportation and pre-existing "Buy American" rules); and

-- a chilling effect that stops distributors with federal and sub-federal government buyers from sourcing from international suppliers in order to avoid accidentally running afoul of "Buy American" legislation (e.g., removal of carwash pipes from Camp Pendleton).

14. (SBU) DFAIT alleges that these elements represent a pervasive/systemic problem that has expanded beyond procurement to general municipal spending. Canadian officials plan to reach out to Washington agencies, state governors, and congressional delegations to press their concerns (and we are aware of senior meetings that have already taken place between State, USTR and USDOC and Canadian officials visiting Washington).

Retaliatory Pressures Gain Momentum

15. (SBU) The Harper government has attempted to dampen opposition party calls to retaliate against alleged U.S. protectionism. In February, Bill Richardson, Chair of the House of Commons International Trade Committee, stated in Parliament that a "kneejerk reaction" for retaliatory "Buy Canadian" legislation would be "profoundly counterproductive." As the reach of Buy America has expanded, however, the government has had more difficulty defending Qexpanded, however, the government has had more difficulty defending status quo trade relations with the United States. On May 26, New Democratic Party MP Irene Mathysen introduced "Made in Canada" legislation to cover the federal purchases of goods and services not already covered by trade agreements. Parliamentary experts give the bill little chance of success given the limited time left in the

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current session but the bill adds fuel to a growing anti-"Buy American" backlash.

16. (SBU) Most Canadian retaliation discussion has centered on municipalities and labor unions. The Canadian Auto Workers (CAW) -- supported by the Canadian steel union -- have campaigned for a "Buy Canadian-Building Communities" resolution that makes Canadian content a key determinant in municipal tendering decisions. While there are no specific thresholds for Canadian content (except for a minimum fifty percent domestic content for public transit vehicles), the CAW proposes that municipal contracts will be awarded to bidders who can offer the greatest level of Canadian content. The CAW claims that their resolution has been adopted by more than thirteen communities, many of which are located in economically hard-hit steel and manufacturing regions.

17. (U) The community of Halton Hills (refs A, B) near Toronto has passed its own resolution and is leading a push to make "Buy Canadian" provisions a focal point of the upcoming Federation of Canadian Municipalities annual meeting on June 6. The Federation, representing 1775 member cities (ref B), will vote on an emergency resolution that encourages its members to exclude from municipal purchasing those companies whose countries of origin "impose trade restrictions against goods and materials manufactured in Canada." The resolution also contains measures aimed at encouraging greater cross-border cooperation at the federal, municipal, and business levels in order to reduce procurement barriers.

18. (SBU) Not everyone is convinced that Canadian retaliation would be effective. Clive Thurston, president of the Ontario General Contractors Association, states that trying to identify the source of goods and level of Canadian content would create logistical nightmares for contractors bidding on projects. "It's great to be patriotic, it's great to want to buy locally, but we cannot ignore the fact that we live in a global economy," he said.

U.S. Businesses Reportedly Affected

19. (SBU) In an effort to gain support in the United States, some Canadian industry associations, such as the Canadian Manufacturers and Exporters, have pointed to the unintended negative effects that "Buy American" provisions are allegedly having on U.S. firms who

supply or buy from Canadian companies. Reportedly, some of the hardest hit suppliers are in the integrated water and wastewater sector where, for example, U.S. firms manufacture pumps and chemicals while Canadian firms provide pipes and engineering services. Similarly, the Canadian steel industry is predicting considerable difficulty isolating U.S. steel within the supply chain since steel fabrication activities are shared between related firms in Canada and the United States (ref B).